

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

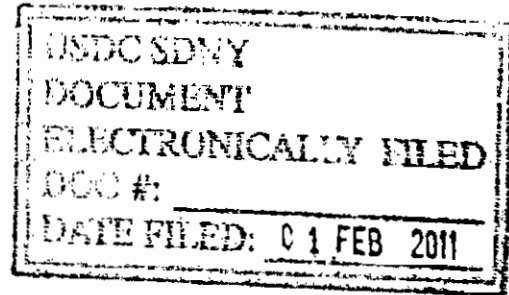
-----X
YAHOO! INC.,

Plaintiff,

-v-

XYZ COMPANIES et al.,

Defendants.
-----X



No. 08 Civ. 4581 (LTS)(THK)

ORDER ADOPTING REPORT AND RECOMMENDATION

On November 16, 2010, pro se defendant Emmanuel C. Onyema ("Onyema") filed an amended answer purporting to contain a counterclaim for libel (see docket entry no. 80) in this trademark infringement action. On December 2, 2010, Plaintiff moved to dismiss Onyema's counterclaim. On January 11, 2011, Magistrate Judge Theodore H. Katz issued a Report and Recommendation ("Report"), recommending that Onyema's counterclaim be dismissed with prejudice for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). Neither party has made any objection to the Report, and the time to do so has elapsed.

In reviewing a report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(c) (West 2008). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wynn v. Lempke, No. 08 Civ. 3894 (RJS), 2009 WL 1227362, at *2 (S.D.N.Y. May 5, 2009).

The Court has reviewed thoroughly Judge Katz's Report and finds no clear error in his recommendation. Accordingly, the Court accepts the Report. Leave to amend having been previously granted, the counterclaim is hereby dismissed with prejudice.

This order resolves docket entry no. 88.

SO ORDERED.

Dated: New York, New York
February 1, 2011

A handwritten signature in black ink, appearing to read 'Laura Taylor Swain', is written over a horizontal line.

LAURA TAYLOR SWAIN
United States District Judge